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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/722,153

11/25/2003

Pat Inglese

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06/19/2007

MYERS & KAPLAN

INTELLECTUAL PROPERTY LAW, L.L.C.

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EXAMINER

MORGAN JR, JACK HOSMER

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/722,153

Applicant(s)

INGLESE, PAT

Examiner

Jack H. Morgan

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

Continuation of Disposition of Claims: Claims pending in the application are 1,3-7,17,18,21,24-30,32,33,35-39,49,50,53,56-62,64,65,67-71,81,82,85,88-94,96 and 108-113.

Continuation of Disposition of Claims: Claims rejected are 1,3-7,17,18,21,24-30,32,33,35-39,49,50,53,56-62,64,65,67-71,81,82,85,88-94,96 and 108-113.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. The indicated allowability of claims 16, 18, 20, 28-30, 48, 50, 52, 60-62, 80, 82, 84 and 92-94 is withdrawn in view of the newly discovered reference(s) to Nattrass (US 6,056,440) and previously cited reference to LaFleur (US 5,607,237). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-7, 17, 21, 24-28, 30, 32, 108, 109 and 110 are rejected under 35 U.S.C. 102(b) as being anticipated by LaFleur (US 5,607,237). LaFleur discloses a device for collection of concrete-like materials (Fig 1) said device comprising a collapsible container (10) with fold lines (32, see Col 2, lines 54-56), the container further comprising four sides, a top and a bottom where the four sides comprising length dimensions and height dimensions and the height dimensions are less than or equal to the length dimensions (See Fig 1) and the top has a periphery (30), the periphery comprising reinforcements around the top (see horizontal strips at corners, covering 18) and means (18) adapted for at least partially supporting a portion of the container whereby the container may receive the materials there within.

LaFleur discloses the bottom dimensions are equal to the length dimensions of the attached walls, the top is partially enclosed (See Fig 1), there are means for permitting entry of concrete like materials into said collapsible container which comprises a centrally located rectangular opening (See Fig 1) having a periphery. LaFleur further discloses the collapsible container comprising a material that permits water to exit without permitting concrete particles to exit which is a woven polypropylene (See Col 2, lines 25-59), the container further comprising a generally prismatic shape.

LaFleur additionally discloses a water impermeable container comprising a leak-proof liner (Col 2, lines 59-62) and also the means for supporting the container being loop supports (18) with the sides forming junctions there between (See Fig 1) and the loop supports being carried by said junctions with extensions straps (20) attached to the loop supports and means (the flat sections of the extension straps) to affix the extension straps to a support point (such as a fork lift).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 18 and 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaFleur (US 5,607,237) in view of Kim (US 6,467,955). LaFleur discloses all the limitations of the claims except for reinforcements around the periphery of the means for

permitting entry. Kim discloses a bulk bag (Fig 10) having a centrally located opening (16) with reinforcement around the opening in order to reinforce it (Col 5 lines 5-8) and thus prevent it from failing. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the collapsible container of LaFleur with a reinforced opening as taught by Kim in order to prevent it from failing under stress.

4. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over LaFleur (US 5,607,237) in view of Meixelsperger et al. (US 6,866,073). LaFleur discloses all the limitations of the claims except for the extension straps comprising bungee cords. Meixelsperger et al. disclose a bag attached to a hopper (Fig 2 or 3) which has a bungee cord (101) employed to secure the bag to the frame assembly of a piece of machinery (Col 1, lines 44-46). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the collapsible container of LaFleur with a bungee cord extension in order to secure the container to a piece of machinery.

5. Claims 33, 35-37, 49, 64, 65, 67-69, 81 and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Natrass (US 6,056,440). Natrass discloses a device for collection of concrete-like materials (Fig 1) comprising a collapsible container having a planar top (100) and a parallel bottom, and an opening coplanar with said top, where the container comprises four sides, a top and a bottom, the top having a perimeter and the perimeter being reinforced (See Fig 4, 166 and Col 5 lines 16-20) and means adapted for supporting a portion of the container by the material storage reservoir and

further that the bottom dimensions are equal to the length dimensions of the four sides to which the bottom is attached and the container being a generally prismatic shape. Nattrass also discloses a partially enclosed top (See Fig 3 and 4) with means (132) for permitting entry of concrete like materials into the container, the means having a periphery.

Nattrass does not disclose the length dimensions of the sides being greater than the height dimensions of the sides. It would have been obvious to one of ordinary skill in the art to make the length dimensions of Nattrass greater than the height dimensions. A change in proportion is generally recognized as being within the level of ordinary skill in the art. *In re Reese*, 129 USPQ 402.

6. Claims 33, 35-38, 39, 49, 53, 56-60, 62, 64, 65, 67-71, 81, 85, 88-92, 94, 96, 111 and 112 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaFleur (US 5,607,237) in view of Nattrass (US 6,056,440). LaFleur discloses a device for collection of concrete-like materials (Fig 1) said device comprising a collapsible container (10) with fold lines (32, see Col 2, lines 54-56), the container further comprising four sides, a top and a bottom where the four sides comprising length dimensions and height dimensions and the height dimensions are less than or equal to the length dimensions (See Fig 1) and the top has a periphery (30), the periphery comprising reinforcements around the top (see horizontal strips at corners, covering 18) and means (18) adapted for at least partially supporting a portion of the container whereby the container may receive the materials there within.

LaFleur discloses the bottom dimensions are equal to the length dimensions of the attached walls, the top is partially enclosed (See Fig 1), there are means for permitting entry of concrete like materials into said collapsible container which comprises a centrally located rectangular opening (See Fig 1) having a periphery. LaFleur further discloses the collapsible container comprising a material that permits water to exit without permitting concrete particles to exit which is a woven polypropylene (See Col 2, lines 25-59), the container further comprising a generally prismatic shape.

LaFleur additionally discloses a water impermeable container comprising a leak-proof liner (Col 2, lines 59-62) and also the means for supporting the container being loop supports (18) with the sides forming junctions there between (See Fig 1) and the loop supports being carried by said junctions with extensions straps (20) attached to the loop supports and means (the flat sections of the extension straps) to affix the extension straps to a support point (such as a fork lift).

LaFleur does not disclose the container having a planar top, which is parallel with the bottom. Natrass discloses a container of similar structure to LaFleur that has a planar top that is parallel to the bottom. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the collapsible container of LaFleur with a planar top parallel to the bottom as taught by Natrass as a planar top is well known in the bag art to take up less space than a sloped top.

7. Claims 50 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaFleur (US 5,607,237) in view of Natrass (US 6,056,440) as applied to claims 38,



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39, 53, 56-59, 60 62, 70, 71, 85, 88-91, 92, 94, 111 and 112 above, and further in view of Kim (US 6,467,955). LaFleur as modified above discloses all the limitations of the claims except for reinforcements around the periphery of the means for permitting entry. Kim discloses a bulk bag (Fig 10) having a centrally located opening (16) with reinforcement around the opening in order to reinforce it (Col 5 lines 5-8) and thus prevent it from failing. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the collapsible container of LaFleur as modified above with a reinforced opening as taught by Kim in order to prevent it from failing under stress.

8. Claims 61 and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaFleur (US 5,607,237) in view of Natrass (US 6,056,440) as applied to claims 38, 39, 53, 56-59, 60 62, 70, 71, 85, 88-91, 92, 94, 111 and 112 above, and further in view of Meixelsperger et al. (US 6,866,073). LaFleur as modified above discloses all the limitations of the claims except for the extension straps comprising bungee cords. Meixelsperger et al. disclose a bag attached to a hopper (Fig 2 or 3) which has a bungee cord (101) employed to secure the bag to the frame assembly of a piece of machinery (Col 1, lines 44-46). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the collapsible container of LaFleur as modified above with a bungee cord extension in order to secure the container to a piece of machinery.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Natrass (US 4,646,357) and Natrass (US 5,738,619).

10. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack H Morgan  
Examiner  
Art Unit 3782

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER